IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.1329/2002

Reserved on.9.7.2007

Decided on.2.8.2007

Amar Singh and others. **…Petitioners.**

Versus

State of H.P. & others. **…Respondents**

Coram

The Hon'ble Mr. Rajiv Sharma, J.

Whether approved for reporting ?[1]*.No*

For the petitioner : **Mr. Sanjeev Kuthiala, Advocate.**

For the respondents **Mr. M.S. Chandel, Advocate General with Mr. M.A. Khan and Ms. Meenakashi Sharma, Dy. Advocate Generals for respondents No. 1 and 2.**

Mr. Ashwani K. Sharma, Advocate for respondents No.3 to 6.

Rajiv Sharma, J.

A challenge has been laid by way of this petition to the order passed by the Director Consolidation of Holdings under section 54 of the H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, 1971 dated 11.4.2002.

The brief facts which can be culled out from the pleadings of the parties are that a scheme with respect to the locality was published on 16.12.1993. The scheme with respect to Mohal Panjehti, Tehsil Sadar, District Mandi was approved on 19.3.1994. The Consolidation Officer, Mandi had passed the order on 21.8.1996 relating to allotment of khasra No. 427. An appeal was preferred against the order of the Consolidation Officer before the Settlement Officer. The Settlement Officer vide order

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgment***? No

dated 19th March, 1998 had remanded the matter to the Consolidation Officer. The Settlement Officer had set aside the case and remanded the matter to the Consolidation Officer with the following directions:

a) **Spot be visited in presence of interested parties;**
b) **Parties be given reasonable opportunity of being heard.**
c) **Provisions relating to block wise allotment and allotment of land abutting to the road and the scheme of consolidation be kept in mind.**
d) **Due regard should also be paid to the convenience of parties.**

File be sent to C.O. Mandi for compliance. Parties are directed to appear before CO Mandi on 4.4.1998."

In sequel to order dated 19.3.1998, the Consolidation Officer passed a fresh order on 19.10.1998. An appeal was preferred against the order of the Consolidation Officer by the petitioners before the Settlement Officer. The Settlement Officer dismissed the appeal on 14.10.1999. The petitioners preferred an appeal before the Additional Director Consolidation under section 30 of the H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, 1971. The Additional Director Consolidation accepted the appeal and directed that the *tatima* and *tarkeem* be prepared by inspecting all the documents vide order dated 11.7.2000. The respondents No.3 to 6 filed a revision petition under section 54 of the H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, 1971 against the order of the Additional Director Consolidation dated 11.7.2000. The Director Consolidation accepted the revision upholding the order passed by the Consolidation Officer dated 19.10.1998.

Mr. Sanjeev Kuthiala, Advocate had strenuously argued that the order passed by the Director dated 11.4.2002 is against the mandatory

provisions of the H.P. Holdings (Consolidation and Prevention of Fragmentation) Act, 1971.

The learned Advocate General and Mr. Ashwani K. Sharma, Advocate appearing on behalf of the respondents had supported the order passed by the Director dated 11.4.2002.

I have heard the learned counsel for the parties and perused the record.

The position which emerges from the aforesaid facts is that the scheme was published on 19.3.1994 for village Panjehti. The Consolidation Officer had passed the order on 21.8.1996 and on appeal the matter was remanded back to the Consolidation Officer by the Settlement Officer on 19.3.1998. The Consolidation Officer had passed the fresh order on 9.10.1998 as directed by the Settlement Officer on 19.3.1998. The appeal preferred before the Settlement Officer was rejected on 14.10.1999 and the appeal preferred by the petitioners was accepted by the Additional Director on 11.7.2000. The same was set aside by the Director Consolidation on 11.4.2002.

Mr. Ashwani K. Sharma, Advocate had drawn the attention of the Court to the scheme Annexure RZ of Mohal Panjehti No. *Had Bast* 365, Tehsil Sadar, District Mandi, H.P. The land in question situates abutting to Mandi-Rewalsar and Twambra-Talyar Road. While drawing the scheme the authorities had taken into consideration that the commercial property situates on the road is allotted judiciously. The relevant portion of the scheme is reproduced as under:

> **"In this mohal, there are two roads on the spot, Mandi to Rewalsar and Twambra to Talyar. Land situate on both sides of road shall be allotted to the previous owner in possession. In the event of more land under possession than the share, other share-holder shall also be given land as per share."**

The Director Consolidation while passing the impugned order had taken into consideration the entire scheme i.e. Annexure RZ. The land has been allotted to the parties in most judicious manner. The Settlement Officer on 19.3.1998 had directed the Consolidation Officer to pass fresh orders after visiting the spot in the presence of the interested parties. The Settlement Officer had further directed the Consolidation Officer to give reasonable opportunity of being heard to the parties and the provisions relating to block-wise allotment and allotment of land abutting to the road and the scheme of consolidation be kept in mind. The Consolidation Officer had passed the detailed order on 9.10.1998 strictly as per the directions issued by the Settlement Officer. The Consolidation Officer while passing the order had taken into consideration the block-wise allotment and allotment of land abutting to the road as per the scheme. The petitioners have not placed on record any document to substantiate their plea of alleged partition in the year 1962-63. The Consolidation Officer while passing the order dated 9.10.1998 had also taken into consideration the value of the land. The Additional Director had not discussed the true ambit and scope of the scheme while passing the order dated 11.7.2000. The Additional Director (Consolidation) should have ensured that the consolidation is required to be done in judicious manner. There is neither any irregularity nor any jurisdictional error in the order dated 11.4.2002 passed by the Director Consolidation, H.P.

Consequently the writ petition is dismissed with no order as to costs.

(Rajiv Sharma), Judge

August 2, 2007
Awasthi